

**DRAFT MEETING MINUTES**  
**WATER POLLUTION CONTROL ADVISORY COUNCIL**  
**10:00 am, Friday, January 12, 2018**  
**Metcalf Building**  
**1520 E. Sixth Ave., Helena, MT 59620**

**PRESENT**

*Council Members Present:*

*Trevor Selch*

*Earl Salley*

*Craig Workman*

*Mike Suplee (phone)*

*Michael Wendland (phone)*

*Karen Sanchez (phone)*

*Council Members Absent:*

*Stevie Neuman*

*Montana Department of Environmental Quality Staff Members Present:*

*Hannah Riedl*

*Carolina Balliew*

*Eric Urban*

*Mike Suplee (phone)*

**CALL TO ORDER**

Chairman Selch called the meeting to order.

**APPROVAL OF AGENDA**

Chairman Selch brought forward the approval of the agenda. Councilmember Salley moved the agenda be approved, and it was so moved.

**APPROVAL OF MINUTES**

Chairman Selch asked if there were any changes or edits to the July or November minutes. There being no changes, councilmember Salley moved to accept the minutes. The move was seconded, and the minutes were approved as recorded.

**BRIEFING ITEMS**

[Industrial Stormwater General Permit 2018 Renewal](#) – Carolina Balliew

Substantial updates to the general permit include:

- Requirements for Sage Grouse review. If the facility is in Sage Grouse habitat, permit applicants must receive a consultation letter prior to submitting a Notice of Intent Form to obtain coverage underneath this permit.
- Detailed methodology to determine if the permit applicant is discharging into impaired water bodies. If this is the case, new requirements include reviewing TMDL specifications for the facility or operation.
- Removed annual inspections and made routine inspections more comprehensive.
- Annual Reports will now be submitted to the DEQ.
- Control measures are no longer written in paragraph form, and instead presented in bulleted check list items.
- Permittees can now identify multiple outfalls, and they can qualify some of those outfalls as significantly identical to others. In the current permit, permittees only identified identical outfalls within their SWPP. This has been updated so that the permittee submits identical outfalls for review and approval by DEQ before they are allowed to only monitor at one outfall that's representative of others.
- The form for Conditional Exclusion for No Exposure is updated to allow for a better review upfront, including a detailed map, a detailed facility description, a detailed description of operations.
- The annual report has been updated to reflect the current draft permit conditions.
- We hope to have a guidance document or template for the SWPP before the permit is finalized.

The floor opened to questions.

Councilmember Workman asked if nutrients in storm water are given the same scrutiny as nutrients for wastewater treatment.

Balliew responded that benchmark monitoring is a tool DEQ utilizes to see how a facility or operation is doing. There are benchmark standards that could include nutrients but are not a permit limit. Facilities have a SWPP and multiple controls that work systematically. If there is a discharge, benchmark standards act as a tool to see what's potentially not working in the system. These benchmarks aren't limits, as they are not reflective of updated nutrient standards, but they are protective of receiving water bodies for nutrients.

Chairperson Selch asked how Enforcement comes into play with this permit.

Balliew explained that if a facility does not address all requirements they proposed, then they are out of compliance. Their SWPP includes industrial specific requirements. In these cases, a compliance Inspector would move through the tiers of compliance and document what needs to happen within a specific time frame to obtain compliance. That could include updating their SWPP to reflect the deficient items or inadequate items. Part of this is confirmed in the routine inspections. Permit writers write the permits, then the SWPP is reviewed and approved according to the application requirements. Since permit writers are not onsite, requirements in the SWPP may be misrepresentations, not inclusive of everything, or the BMP's in place are not adequate or maintained. Compliance inspectors go onsite to verify the SWPP is followed and the facility is compliant. If after several non-compliant inspections, then the facility is given over to Enforcement. Compliance is in communication and coordination with Enforcement.

## **ACTION ITEMS**

*Numeric Nutrient Variances - Eric Urban, Mike Suplee*

Urban DEQ circular 12b has two distinct sections: a general variance, and an individual variance. The general variance topic was extensively modified the summer of 2017, during which significant comment and feedback were received, and since then we have adopted and finalized that rule package. In Oct. of this year we received approval of that rule package from the EPA, however, EPA's approval letter was silent about the individual variance language. Post rulemaking, EPA expressed minor concerns that we choose to address in a separate rule making, which is the one in front of us today. For clarity, this rule package does not speak to the general variances, which is what most all permittees are applying for today, and it does not modify the individual variance request that Whitefish made and we presented to the council in December. The rulemaking we present today are modifications to section three. The first modification is a deletion of section 3.2, which included extensive language concerning modeling needs to look at the scientific reasoning about why their waterbody might have a different outcome required for maintaining their variance. After significant review, we felt this language was simply redundant to other language in the ARM. The other modification adds more clarity as to what an individual variance needs to determine highest attainable condition, which now lines up with revised federal regulations. The substance of this package adds clarification to the highest attainable condition and provides two options for permittees with respect to that.

Turned over to council for questions.

Councilmember Sanchez Where in the circular are the proposed changes?

Urban Page 7 of DEQ 12 B, section 3.0. Option 1 and 2 are the substance of our proposal for rulemaking.

Suplee explained the first option addresses a situation where a facility or community has demonstrated that the cost to meet the general variance requirement is too high because of their specific economic situation. Therefore, an economic demonstration shows that what they are proposing, although it may not meet the general variance requirements, is as costly or potentially costlier than what needs to be done [for an individual variance]. The facility can then move forward on their individual variance based on whatever that facility they can afford. If you will recall when we did the update to the circular, there was an addition that at the federal level is called a PMP, or essentially a very responsive optimization of this facility after it's been built. That is a situation that is reflected in the second bullet. In the second option if the community continues to demonstrate that it's too expensive to put any more advanced technological costs into the facility because they've already paid more than they need to based on our evaluation criteria, then they are just required to optimize that facility to the best of their ability.

Chairman Selch clarified DEQ was looking for a motion to accept changes to DEQ 12b for individual variances.

Councilmember Workman asked if option 2 under the new HAC language would be a good place to enter some type of a benchmark, not necessarily a dollar amount, in terms of what is meant by no additional feasible pollutant control technologies. In the Whitefish variance, we added some additional language specifying what could be expected of the city to spend. "No additional feasible pollutant control technologies" could be a little vague.

Urban This is such a site-specific question that it's difficult to predict that level of detail. While there's benefit to being prescriptive and putting in some level of detail, there is also benefit in being somewhat generic and allowing some deference to that subject. That said, it's certainly a comment we can document and put some thought into whether there's benefit in further quantifying that.

Chairman Selch opened the floor to discussion.

Motion to accept the proposed changes to DEQ 12b for individual variances made by Chairman Selch, seconded by councilmember Salley. No discussion. No public comments. Motion carries.

#### *2018 Chair and Vice Chair elections*

Chairman Selch entertained motions for chair for 2018. Councilmember Salley asked if Chairman Selch was willing to continue his role. He stated that he was, but was willing to offer any alternates as well. Motion made by Councilmember Workman that Chairman Selch remain as Chair, seconded by Councilmember Wendland. The motion was taken to a vote and passed unanimously. Chairman Selch nominated Councilmember Salley as Vice Chair. Councilmember Salley accepted the nomination. Seconded by Councilmember Workman. Motion passed unanimously.

#### *2018 WPCAC calendar and vacancies*

Riedl Three options per meeting were presented. All three options fall before the deadline of the 30-day notice of publication in the MAR. Councilmember Sanchez said September 14 will not work, and Vice Chair Salley said March 2 and March 9 will not work. February 23 is the date remaining for the next meeting. Although Hannah will be out of the country, someone will fill in. Riedl proposed the middle of the three dates for May, July, September, and November meetings. Riedl will circulate that schedule.

Riedl is still working on filling vacancies. She asked councilmembers for recommendations for professional associations that could be contacted to fill these vacancies. Vice Chair Salley said he would look into an association representing organic waste.

*Public comments* were asked for. There were none.

*Agenda items for next meeting* – Councilmember Sanchez recommended a briefing regarding any radioactive waste storage in MT, leakage, and any rules or guidelines that DEQ is working to develop or has developed regarding this. Riedl will work to get this on February's agenda.

Motion to adjourn by Vice Chair Earl Salley. Meeting adjourned.